## REMARKS

Claims 1 through 3 are cancelled. New claims 4 through 12 are added and are under consideration. Reconsideration of all claims is respectfully requested.

### Rejection Under 35 U.S.C. § 112 Rejection

Claims 1-3 were rejected under 35 U.S.C. § 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

In Paragraph 3 A, the Action points out informalities in claims 1, 2 and 3. In response, claims 1 through 3 are cancelled and new claims 4 through 12 are submitted.

In paragraph 3 B, the Action states: *"the step of evaluating a score of individual risks describing the impact of risk on financing is vague and indefinite, it is unclear how the score correlates to the "impact of risk".....*

In response, applicant refers the Examiner to page 8 of the Specification where it is clearly explained that a score of one represents a low-level risk and a score of 5 represents a high level risk. Therefore the cumulative score for all risk categories correlates to the "impact of risk" of investing or financing a specific technology. The different risk categories described on page 6, lines 4- 24 of the specification are:

tangible assets,

intellectual property,

personnel,

financial liquidity,

current liability or

potential liability

7

Using historical data used in due diligence, each of the above risk categories is ascribed a risk score by the user, who is an individual with skill in the art. Then all individual risk scores are added to obtain a cumulative risk score. An investor will establish a risk score matrix to evaluate which risk score level is acceptable to support a decision to finance the technology. Each technology enterprise has its characteristic risk score matrix. The unique thing about this invention is that it allows the user to customize his own criteria and risk score matrix.

Should the risk score be high for a specific risk category and requires corrective action, the investor will be able to set that as a condition for financing.

The present invention quantifies individual risks, and includes risk categories that go well beyond the traditional risk categories of present and future asset values only which are currently considered for a technology company by prior art systems.

Applicant feels that these additional risk categories have been overlooked to date and led to bad decisions in financing technologies, because of incomplete or defective measures of risk for financing. The new claims particularly and distinctly point out these essential elements.

## 35 U.S.C. § 101 Rejection

Claim 3 is cancelled. Claims 4-12 cover an invention that provides a computer system and method to measure the risk of investing in various technologies, and is therefore patentable statutory matter.

## 35 U.S.C. § 102 (b) Rejections

The Examiner rejected claims 1-3 under 35 U.S.C. § 102 (b) as being anticipated by Sandretto (US 5,812,988).

The Office Action states that *Sandretto discloses a computerized method and a corresponding system assessing risk for financing a select technology enterprise comprising a means for storing in accessible memory a database on risk categories and characteristics of said categories relevant to financing said technology, data processing means for evaluating a score for one or more risk categories and computing a cumulative risk of current risk categories and determining risk in relation to past performances (abstract, figs 1 and 6, and column 16, lines 10-67), and taking corrective measure in a risk category which poses an impact on the financing (column 18, line 27-67, and column 21, lines 8-34).*

In response, applicant disagrees that the present invention is anticipated by Sandretto. Sandretto describes a data processing system having the computer processor and a data processing means for evaluating a score for one or more risks in quite different categories from the present invention, that is Sandretto's risk score is based on

a)-processing data on economic variables and asset–specific variables to determine cash flows,

b)-generating alternate data on economic variables and asset-specific variables using algorithms, and,

c)- processing values in a) against b) to determine a simulated index return and output risk measure.

In contrast, the present invention describes a computer processor and a data processing means, that measures risk in categories quite different from those described by Sandretto, and for the first time, includes in the evaluation of financing risk, factors

9

additional to the economic factors, for e.g., personnel, intellectual property, liability(of technology), etc.

The present invention does not create a simulated index like Sandretto but a current measure of risk, by using a different algorithm, a different scoring system, and a flexible risk matrix that can be adapted based on the type of technology being financed. Applicant has successfully used the invention in evaluating start-up technology companies.

Specifically, Claims 4-6 in the present invention cover a computer –implemented systems for assessing risk for financing a select technology, and includes elements different and distinguishable from those discussed above for Sandretto.

4. A computer-implemented system for assessing risk for financing a select technology enterprise, said system comprising: *[Specification: page 3, lines lines 8-16], Figures 1 &2*

    *a)* a processing unit that is arranged to receive data related to risk categories for financing the select technology enterprise, the technology enterprise selected from the group consisting of biotechnology, internet, information technology, health care, chemical processing, communications, software, nanotechnology, bioinformation and medical devices, and the risk categories including tangible assets, intellectual property, personnel, financial liquidity, current liability or potential liability; and *[Specification:page 6, lines 8-17]*

    b) an executable software stored on the processing unit and executable on demand, said software being operative with the processing unit to:
gather data related to the risk categories and receive information relating to details of the financing,

structure the information received based on historical data and performance data according to risk categories,

generating scores for individual risk categories, and

calculating a current cumulative risk score referencing the structured information and the gathered data. *[Specification:page 8, lines 1-12]*

Claims 5 and 6 are dependent on claim 4. Support for each in the specification is indicated in italics.

5. The system according to claim 4, further including the steps of:

determining when the individual and cumulative scores indicate an acceptable level of financial risk,

causing the financing request to be accepted when the risk score indicates an acceptable risk of financing, and

causing the financing request to be rejected when the risk score indicates an unacceptable level of financing risk. *[Specification:page 8, line 18 to page 9 line 8]*

6. (New) The system according to claim 5, further including:

taking corrective measures for risk scores that are of unacceptable level of financing risk, and

causing the financing request to be accepted when the score indicates an acceptable level of financing risk. *[Specification:page 11, lines 13-17]*

Additionally, Claims 7-9 in the present invention cover a computer program product for assessing risk for financing a select technology, and includes elements different and distinguishable from those discussed above for Sandretto.

7. A computer program product for assessing risk for financing a select technology enterprise, said product comprising:

a. computer code arranged to receive data related to risk categories for financing the select technology enterprise, the technology enterprise selected from the group consisting of biotechnology, internet, information technology, health care, chemical processing, communications, software, nanotechnology, bioinformation and medical devices, and the risk categories including tangible assets, intellectual property, personnel, financial liquidity, current liability or potential liability;

c. computer code arranged to gather data related to the risk categories and receive information relating to details of the financing;

c. computer code arranged to structure the information received based on historical data and performance data according to risk categories; and

e. computer code arranged to generate scores for individual risk categories, and calculating a current cumulative risk score referencing the structured information and the gathered data. *[Specification:Figures 1-27 and detailed description of these figures]*

8. The computer product according to claim 7 wherein the computer code is
   arranged to
determine when the individual and cumulative scores indicate an acceptable level of financial risk,
cause the financing request to be accepted when the risk score indicates an acceptable risk of financing, and
cause the financing request to be rejected when the risk score indicates an unacceptable level of financing risk.     *[Specification:page 10, line 6 to page 11, line12]*

9. The computer product according to claim 7 wherein the computer code is
   arranged to:
take corrective measures for risk scores that are of unacceptable level of financing risk, and
cause the financing request to be accepted when the score indicates an acceptable level of financing risk. *[Specification:page 11, lines 13-17]*

12

Claims 10-12 in the present invention cover a computer –implemented method for assessing risk for financing a select technology, and includes elements different and distinguishable from those discussed above for Sandretto.

10. A computer implemented method for assessing risk for financing a select technology enterprise, said method comprising:
gathering data related to the risk categories and receive information relating to details of the financing,
structuring the information received based on historical data and performance data according to risk categories,
generating scores for individual risk categories, and
calculating a current cumulative risk score referencing the structured information and the gathered data. *[Specification:Figures 1-27 and detailed description of these figures]*

11. (New) The computer implemented method for assessing risk for financing a select technology enterprise according to claim 10, said method additionally comprising:
determining when the individual and cumulative scores indicate an acceptable level of financial risk,
causing the financing request to be accepted when the risk score indicates an acceptable risk of financing, and
causing the financing request to be rejected when the risk score indicates an unacceptable level of financing risk. *[Specification:page 10, line 6 to page 11, line12]*

12. (New) The computer implemented method for assessing risk for financing a select technology enterprise according to claim 11, said method additionally comprising:
taking corrective measures for risk scores that are of unacceptable level of financing risk, and

causing the financing request to be accepted when the score indicates an acceptable level of financing risk.*[ Specification:page 11, lines 13-17]*
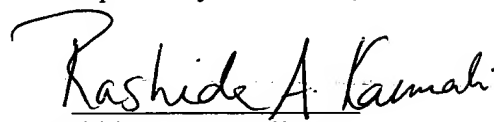
## LEGAL STANDARD

Since under the case law, for a rejection to be upheld under section 102(b) of 35 USC, "...every element of the claimed invention must be identically shown in a single reference...these elements must be arranged as in claim under review" (In re Bond, 910 F.2$^{nd}$ 831, 15 USPQ 2$^{nd}$ 1566). Specifically, the present invention includes a computer and data processing means that measures risk in several categories that are not described in Sandretto. Sandretto describes economic variables specific to determine cash flows and a simulated index return and output risk measure. In contrast the present invention creates a current measure of risk, by using a different algorithm, a different scoring system, and a flexible risk matrix that can be adapted based on the type of technology being financed. Importantly, applicant has successfully used the invention in evaluating start-up technology companies.

Therefore, under In re Bond, the cited art, Sandretto, does not anticipate the invention. This is because several essential elements of the present invention are not present in the cited prior art. Therefore, this rejection should be withdrawn.

If for any reason, the Examiner should deem this application not in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney to resolve any outstanding issues prior to issuing a further Office Action in the interest of moving the prosecution forward efficiently.

December 30, 2004

Respectfully Submitted,

Rashida A. Karmali, Esq.
Reg. No. 43,705
Attorney for Applicants
99 Wall Street, 13th Floor
New York, NY 10005
Phone (212) 651-9653
Fax (212) 651-9654